

TEXAS DEPARTMENT OF INSURANCE
EXEMPT FILING NOTIFICATION UNDER TEXAS INSURANCE CODE
CHAPTER 5, SUBCHAPTER L, ARTICLE 5.96

Liberty Mutual Insurance and its group affiliates filed Petition No. W-0413-01 on April 5, 2013, with the Texas Department of Insurance. The petition requests that the commissioner amend the *Texas Basic Manual of Rules, Classifications and Experience Rating Plan for Workers' Compensation and Employers' Liability Insurance* to allow insurance carriers to file and use modeled rating factors to calculate their premiums. The petition specifies proposed amendments to Rule III E (Policy Preparation), Rule VII B (Premium Discount), and Appendix A (Procedures), and the addition of Rule VI M (Modeled Rating Factor) to the *Basic Manual*. Liberty requests that the proposed amendments be effective 30 days after notice of their adoption is published in the *Texas Register*.

Article 5.96 and §§2053.001(2-a), 2053.001(4), and 2053.002(a) of the Texas Insurance Code authorize Liberty to file this petition and the commissioner to take the requested action. Article 5.96(a) authorizes TDI to prescribe, promulgate, adopt, approve, amend, or repeal standard and uniform manual rules, rating plans, classifications plans, statistical plans, and policy and endorsement forms for various lines of insurance, including workers' compensation insurance. Article 5.96(b) allows any interested person to initiate proceedings with respect to any matter specified in section (a) by filing a written petition with the chief clerk.

Section 2053.001(2-a) defines "premium" as the amount charged for a workers' compensation insurance policy, including any endorsements, after the application of individual risk variations based on loss or expense considerations.

Section 2053.001(4) defines "rate" as the cost of workers' compensation insurance per exposure unit, whether expressed as a single number or as a prospective loss cost, adjusted to account for the treatment of expenses, profit, and individual insurance company variation in loss experience, before applying individual risk variations based on loss or expense considerations. As defined, "rate" does not include a minimum premium.

Section 2053.002(a) states that in setting rates, an insurance company shall consider (1) past and prospective loss cost experience; (2) operation expenses; (3) investment income; (4) a

reasonable margin for profit and contingencies; (5) the effect on premiums of individual risk variations based on loss or expense considerations; and (6) any other relevant factor.

The proposed amendments to Rule III E add a modeled rating factor (MRF) to the calculation of the total estimated policy cost of a workers' compensation policy. The MRF applies to the estimated modified premium to produce the estimated modified/modeled rating premium. The proposed amendments also renumber the steps in calculating the total estimated policy cost.

The proposed amendment to Rule VII B amends the definition of standard premium to include modeled rating. The proposed amendment to Appendix A amends the list of items on the information page of the policy to include the MRF, if applicable, and re-letters the items in the list.

The proposed amendments add section M (Modeled Rating Factor) to Rule VI. The MRF is an optional factor that insurance carriers can file with TDI and apply when calculating workers' compensation premium. Insurers may use predictive modeling to determine the MRF, and the factor can include tier rating and other similar terms. The MRF takes into consideration individual risk characteristics and loss experience of an insured.

Under the proposed amendments to Rule III E, an insurer will apply its MRF to the policy in a multiplicative manner, and must not apply or use the MRF in a way that duplicates other rating factors, such as schedule and experience rating factors. Once determined, the MRF will apply during the entire policy period. Insurance carriers will be required to evaluate each policy's characteristics and experience at each renewal to determine the MRF for the renewal policy.

The proposed amendments require insurance carriers to make a filing with TDI under Title 28, Texas Administrative Code, Chapter 5, Subchapter M (Filing Requirements) before using an MRF. The filing must include the MRFs; the characteristics, variables, or criteria used to determine the MRFs; actuarial support for the MRFs; and other supporting documentation.

The proposed amendments in the petition are necessary for insurance carriers to use MRFs in calculating workers' compensation rates or premiums. The proposed filing requirement is necessary to promote transparency and accountability in the use of MRFs.

Including an MRF in premium calculations allows an insurance carrier to tailor premiums more precisely to each insured. MRFs enable an insurance carrier to include an insured's specific risk characteristics and loss experience when calculating premium for that insured. With a more precise risk calculation, the insurance carrier can come closer to charging the appropriate premium for the risk each insured actually presents.

Interested parties may review copies of the petition and exhibits on the TDI website at www.tdi.texas.gov/rules/2013/exrules.html or in the Office of the Chief Clerk of the Texas Department of Insurance, 333 Guadalupe Street, Austin, Texas 78701. For further information or to request copies of the petition and exhibits, please contact the Office of the Chief Clerk by email at ChiefClerk@tdi.texas.gov or by phone at 512-463-6327 (Reference No. W-0413-01).

The commissioner may approve these amendments without a hearing. If you wish to comment on the petition and exhibits, or to request a hearing, please submit two copies of your comments or your request to TDI within 15 days after the publication of this notice. Send one copy to the Office of the Chief Clerk, Texas Department of Insurance, Mail Code 113-2A, P.O. Box 149104, Austin, Texas, 78714-9104. Send the other copy to Nancy Moore, Director, Workers' Compensation Classification and Premium Calculation Office, Texas Department of Insurance, P.O. Box 149104, Mail Code 105-2A, Austin, Texas 78714-9104.

TDI publishes this notification under Article 5.96 of the Texas Insurance Code, which exempts action taken under this article from the requirements of the Administrative Procedure Act (Government Code, Title 10, Chapter 2001).

Issued in Austin, Texas on May 24, 2013.



Sara Waitt, General Counsel
Texas Department of Insurance